

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 1846 Of 2016**

1. Ashwani Kumar Lodhi S/o Vishwanath Singour (Lodhi), Aged About 35 Years Occupation Agriculturist, R/o Village Bhadam, Police Station Kota, Tahsil Takhatpur, Civil & Revenue District Bilaspur (Chhattigarh).
2. Sonau Ram @ Sonu, S/o Bodhram, Aged About 52 Years Occupation Agriculturist, R/o Village Bhadam, Police Station Kota, Tahsil Takhatpur, Civil & Revenue District Bilaspur (Chhattigarh).
3. Balaram Lodhi (Singour), S/o Sobha Ram, Aged About 65 Years Occupation Agriculturist, R/o Village Bhadam, Police Station Kota, Tahsil Takhatpur, Civil & Revenue District Bilaspur (Chhattigarh).
4. Raj Kumar Lodhi, S/o Harprasad Lodhi, Aged About 35 Years Occupation Agriculturist, R/o Village Bhadam, Police Station Kota, Tahsil Takhatpur, Civil & Revenue District Bilaspur (Chhattigarh).
5. Smt. Baishakhiya Bai, W/o Jogan Prasad Lodhi, Aged About 45 Years Occupation Labour, R/o Village Bhadam, Police Station Kota, Tahsil Takhatpur, Civil & Revenue District Bilaspur (Chhattigarh).
6. Smt. Kanchan Bai, W/o Late Angad Lodhi, Aged About 52 Years Occupation Labour, R/o Village Bhadam, Police Station Kota, Tahsil Takhatpur, Civil & Revenue District Bilaspur (Chhattigarh).
7. Smt. Karmautin Bai, W/o Ram Singh Lodhi (Singour), Aged About 50 Years Occupation Labour, R/o Village Bhadam, Police Station Kota, Tahsil Takhatpur, Civil & Revenue District Bilaspur (Chhattigarh).
8. Ram Kumar Kaiwart, S/o Meghnath Kaiwart, Aged About 38 Years R/o Village Bhadam, Police Station Kota, Tahsil Takhatpur, Civil & Revenue District Bilaspur (Chhattigarh).
9. Samaru Ram Kaiwart, S/o Meghnath Kaiwart, Aged About 35 Years R/o Village Bhadam, Police Station Kota, Tahsil Takhatpur, Civil & Revenue District Bilaspur (Chhattigarh).

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Vs

1. State Of Chhattisgarh Through Secretary Co-Operative Department, Mahanadi Bhawan Mantralaya Raipur, P. S. Kewli, Tahsil, Civil & Revenue District Raipur (Chhattisgarh).

2. Manager Society, Krishak Seva Sahkari Samiti Maryadit, Ghutku, Reg. No. 3091, Police Station Koni, Tahsil Takhatpur, Civil & Revenue District Bilaspur (Chhattisgarh).
3. President Of Krishak Seva Sahkari Samiti Maryadit, Ghutku, Reg. No. 3091, Police Station Koni, Tahsil Takhatpur, Civil & Revenue District Bilaspur (Chhattisgarh).
4. Chief Executive Officer, Zila Sahakari Kendriya Bank Maryadit, Bilaspur, Police Station Civil Lines, Tahsil, Civil And Revenue District Bilaspur (Chhattisgarh).
5. Registrar, Co-Operative Society, Indrawati Bhawan, New Raipur, Police Station Kewli, Tahsil, Civil And Revenue District Raipur (Chhattisgarh).
6. Deputy Registrar, Co-Operative Society, Composit Building Bilaspur, Police Station Civil Lines, Tahsil, Civil And Revenue District Bilaspur (Chhattisgarh).

---- Respondent

And

WPC No. 2153 of 2015

1. Firtu Ram Patel (Khairwar) S/o Ramdeen Khairwar, Aged About 35 Years Occupation Agriculturist, R/o Village Nirtu (Mauharpara), Police Station Koni, Tahsil Takhatpur, District Bilaspur (Chhattisgarh), Civil & Revenue District Bilaspur (Chhattisgarh)
2. Anjori Lal Patel, S/o Ramhau Patel, Aged About 35 Years Occupation Agriculturist, R/o Village Nirtu (Mauharpara), Police Station Koni, Tahsil Takhatpur, District Bilaspur (Chhattisgarh), Civil & Revenue District Bilaspur (Chhattisgarh)
3. Anil Kumar Patel, S/o Har Prasad Patel, Aged About 31 Years Occupation Agriculturist, R/o Village Nirtu (Mauharpara), Police Station Koni, Tahsil Takhatpur, District Bilaspur (Chhattisgarh), Civil & Revenue District Bilaspur (Chhattisgarh)
4. Umendram Patel, S/o Chowaram Patel, Aged About 44 Years R/o Turkadeeh, Police Station Koni, Tahsil Takhatpur, District Bilaspur (Chhattisgarh), Civil & Revenue District Bilaspur (Chhattisgarh)
5. Mohanlal Patel, S/o Latelram Patel, Aged About 50 Years R/o Turkadeeh, Police Station Koni, Tahsil Takhatpur, District Bilaspur (Chhattisgarh), Civil & Revenue District Bilaspur (Chhattisgarh)
6. Revaram Patel, S/o Gajanand Patel, Aged About 35 Years R/o Turkadeeh, Police Station Koni, Tahsil Takhatpur, District Bilaspur (Chhattisgarh), Civil & Revenue District Bilaspur (Chhattisgarh)

7. Laxmi Prasad Patel, S/o Sunder Lal Patel, Aged About 50 Years R/o Turkadeeh, Police Station Koni, Tahsil Takhatpur, District Bilaspur (Chhattisgarh), Civil & Revenue District Bilaspur (Chhattisgarh)
8. Dinesh Kumar Patel, S/o Deenanath Patel, Aged About 45 Years R/o Turkadeeh, Police Station Koni, Tahsil Takhatpur, District Bilaspur (Chhattisgarh), Civil & Revenue District Bilaspur (Chhattisgarh)
9. Shatruhan Lal Patel, S/o Bhagat Ram Patel, Aged About 40 Years R/o Turkadeeh, Police Station Koni, Tahsil Takhatpur, District Bilaspur (Chhattisgarh), Civil & Revenue District Bilaspur (Chhattisgarh)
10. Ramesh Kumar Kaiwart, S/o Budhram Kaiwart, Aged About 44 Years R/o Turkadeeh, Police Station Koni, Tahsil Takhatpur, District Bilaspur (Chhattisgarh), Civil & Revenue District Bilaspur (Chhattisgarh)
11. Munit Ram Patel, S/o Bharat Lal Patel, Aged About 35 Years R/o Turkadeeh, Police Station Koni, Tahsil Takhatpur, District Bilaspur (Chhattisgarh), Civil & Revenue District Bilaspur (Chhattisgarh)
12. Ram Bahoran Patel, S/o Kartik Ram Patel, Aged About 41 Years R/o Singar Badi (Ghutku), Police Station Koni, Tahsil Takhatpur, District Bilaspur (Chhattisgarh), Civil & Revenue District Bilaspur (Chhattisgarh)
13. Bihari Lal Patel, S/o Late Rambharos Patel, Aged About 56 Years Occupation Agriculturist, R/o Village Ghutku, Police Station Koni, Tahsil Takhatpur, District Bilaspur (Chhattisgarh)
14. Raj Kumar Patel, S/o Deendayal Patel, Aged About 40 Years Occupation Agriculturist, R/o Village Ghutku, Police Station Koni, Tahsil Takhatpur, District Bilaspur (Chhattisgarh)
15. Patel Samaj Ghutku, Through Its President Bihari Lal Patel, Aged About 56 Years, S/o Late Rambharos Patel, R/o Village Ghutku, Police Station Koni, Tahsil Takhatpur, District Bilaspur (Chhattisgarh)
16. Devprasad Patel, S/o Bahorik Patel, Aged About 40 Years Occupation Agriculturist, R/o Village Hardideeh, Police Station Sarkanda, Tahsil & District Bilaspur (Chhattisgarh), Civil & Revenue District Bilaspur (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary Co-Operative Department, Mahanadi Bhawan Mantralaya Raipur, P. S. Kewli, Tahsil & District

Raipur, Civil & Revenue District Raipur (Chhattisgarh)

2. Manager Society, Krishak Seva Sahkari Samiti Maryadit, Ghutku, Reg. No. 3091, Police Station Koni, Tahsil Takhatpur, District Bilaspur (Chhattisgarh), Civil & Revenue District Bilaspur (Chhattisgarh)
3. President Of Krishak Seva Sahkari Samiti Maryadit, Ghutku, Reg. No. 3091, Police Station Koni, Tahsil Takhatpur, District Bilaspur (Chhattisgarh), Civil & Revenue District Bilaspur (Chhattisgarh)
4. Chief Executive Officer Zila Sahkari Kendriya Bank Maryadit Bilaspur, Police Station Civil Lines, Tahsil & District Bilaspur (Chhattisgarh), Civil And Revenue District Bilaspur (Chhattisgarh)
5. Sub Registrar, Co-Operative Society, Composit Building Bilaspur, Police Station Civil Lines, Tahsil & District Bilaspur (Chhattisgarh), Civil And Revenue District Bilaspur (Chhattisgarh)

---- Respondent

And

WPC No. 193 Of 2016

- Gram Panchayat Lokhandi Through Its Secretary Ashok Kaushik, Aged About 53 Years, S/o Lekhram Kaushik, R/o Village Narotikapa (Lamer), Police Station Kota, Tahsil Takhatpur, District Bilaspur (Chhattisgarh), Civil & Revenue District Bilaspur (Chhattisgarh).

---- Petitioner

Vs

1. State Of Chhattisgarh Through Secretary Co-Operative Department, Mahanadi Bhawan Mantralaya Raipur, P.S. Kewli, Tahsil & District Raipur Civil & Revenue District Raipur (Chhattisgarh).
2. Manager Society, Krishak Seva Sahkari Samiti Maryadit, Ghutku, Reg. No. 3091, Police Station Koni, Tahsil Takhatpur, District Bilaspur (Chhattisgarh), Civil & Revenue District Bilaspur (Chhattisgarh).
3. President Of Krishak Seva Sahkari Samiti Maryadit, Ghutku, Reg. No. 3091, Police Station Koni, Tahsil Takhatpur, District Bilaspur (Chhattisgarh), Civil & Revenue District Bilaspur (Chhattisgarh).
4. Chief Executive Officer, Zila Sahkari Kendriya Bank Maryadit Bilaspur, Police Station Civil Lines, Tahsil & District Bilaspur (Chhattisgarh), Civil And Revenue District Bilaspur (Chhattisgarh).
5. Sub Registrar, Co-Operative Society, Composit Building Bilaspur,

Police Station Civil Lines, Tahsil & District Bilaspur (Chhattisgarh),
Civil And Revenue District Bilaspur (Chhattisgarh).

---- Respondent

And

WPC No. 923 Of 2016

1. Ram Singh Patel S/o Mahesu Ram Patel, Aged About 45 Years
Occupation- Agriculturist, R/o Village- Lokhandi, Police Station-
Koni, Tahsil- Takhatpur, District- Bilaspur (Chhattisgarh), Civil And
Revenue District- Bilaspur (Chhattisgarh)
2. Smt. Vidya Bai, W/o Jhadi Lal Patel, Aged About 45 Years
Occupation- Agriculturist Labour, R/o Village- Lokhandi, Police
Station- Koni, Tahsil- Takhatpur, District- Bilaspur (Chhattisgarh),
Civil And Revenue District- Bilaspur (Chhattisgarh)
3. Shiv Prasad Patel, S/o Birij Ram Patel, Aged About 60 Years
Occupation- Agriculturist, R/o Village- Lokhandi, Police Station-
Koni, Tahsil- Takhatpur, District- Bilaspur (Chhattisgarh), Civil And
Revenue District- Bilaspur (Chhattisgarh)
4. Dhani Ram Patel, S/o Late Delu Ram Patel, Aged About 32 Years
Occupation- Agriculturist, R/o Village- Lokhandi, Police Station-
Koni, Tahsil- Takhatpur, District- Bilaspur (Chhattisgarh), Civil And
Revenue District- Bilaspur (Chhattisgarh)
5. Smt. Dashri Bai Patel, W/o Late Delu Ram Patel, Aged About 70
Years R/o Village- Lokhandi, Police Station- Koni, Tahsil- Takhatpur,
District- Bilaspur (Chhattisgarh), Civil And Revenue District-
Bilaspur (Chhattisgarh)

---- Petitioner

Vs

1. State Of Chhattisgarh Through- Secretary, Co-Operative
Department, Mahanadi Bhawan, Mantralaya, Raipur, P. S. Kewli,
Tahsil And District- Raipur, Civil And Revenue District- Raipur
(Chhattisgarh)
2. Manager Society, Krishak Seva Sahkari Samiti Maryadit, Ghutku,
Reg. No. 3091, Police Station- Koni, Tahsil- Takhatpur, District-
Bilaspur (Chhattisgarh), Civil & Revenue District- Bilaspur
(Chhattisgarh)
3. President Of Krishak Seva Sahkari Samiti Maryadit, Ghutku, Reg.
No. 3091, Police Station- Koni, Tahsil- Takhatpur, District- Bilaspur
(Chhattisgarh), Civil And Revenue District- Bilaspur (Chhattisgarh)

4. Chief Executive Officer, Zila Sahkari Kendriya Bank Maryadit, Bilaspur, Police Station- Civil Lines, Tahsil And District- Bilaspur (Chhattisgarh), Civil And Revenue District- Bilaspur (Chhattisgarh)
5. Registrar, Co-Operative Society, Indrawati Bhawan, New Raipur, Police Station, Kewli, Tahsil- And District- Raipur, Civil And Revenue District- Raipur (Chhattisgarh)
6. Deputy Registrar, Co-Operative Society, Composit Building Bilaspur, Police Station- Civil Lines, Tahsil- And District- Bilaspur (Chhattisgarh), Civil And Revenue District- Bilaspur (Chhattisgarh)

---- Respondent

And

WPC No. 1721 Of 2016

1. Ram Kishun Patel S/o Mukhru Ram, Aged About 45 Years Occupation Agriculturist, R/o Village Ghutku, Police Station Koni, Tahsil Takhatpur, Civil & Revenue District Bilaspur (Chhattisgarh)
2. Servar Mohammad, S/o Late Rahim Mohammad, Aged About 36 Years Occupation Business, R/o Village Ghutku, Police Station Koni, Tahsil Takhatpur, Civil & Revenue District Bilaspur (Chhattisgarh)
3. Durgesh Kumar Loniya, S/o Ramnihora Loniya, Aged About 38 Years Occupation Agriculturist, R/o Village Ghutku, Police Station Koni, Tahsil Takhatpur, Civil & Revenue District Bilaspur (Chhattisgarh)
4. Ram Sunder Patel, S/o Late Mohan Lal Patel, Aged About 55 Years Occupation Agriculturist, R/o Village Ghutku, Police Station Koni, Tahsil Takhatpur, Civil & Revenue District Bilaspur (Chhattisgarh)
5. Smt. Rupa Bai, W/o. Dashrath Patel, Aged About 35 Years Occupation Agriculturist, R/o Village Ghutku, Police Station Koni, Tahsil Takhatpur, Civil & Revenue District Bilaspur (Chhattisgarh)
6. Radheshyam, S/o Ramsunder Patel, Aged About 38 Years Occupation Agriculturist, R/o Village Ghutku, Police Station Koni, Tahsil Takhatpur, Civil & Revenue District Bilaspur (Chhattisgarh)
7. Shukla Prasad, S/o Jhaduram, Aged About 55 Years Occupation Agriculturist, R/o Village Ghutku, Police Station Koni, Tahsil Takhatpur, Civil & Revenue District Bilaspur (Chhattisgarh)
8. Pardeshi Ram, S/o Shyamlal, Aged About 60 Years Occupation Agriculturist, R/o Village Ghutku, Police Station Koni, Tahsil Takhatpur, Civil & Revenue District Bilaspur (Chhattisgarh)

9. Pitamber, S/o Shyam Lal, Aged About 60 Years Occupation Agriculturist, R/o Village Ghutku, Police Station Koni, Tahsil Takhatpur, Civil & Revenue District Bilaspur (Chhattisgarh)
10. Mahendra Kumar Patel, S/o Ramprasad Patel, Aged About 26 Years Occupation Agriculturist, R/o Village Ghutku, Police Station Koni, Tahsil Takhatpur, Civil & Revenue District Bilaspur (Chhattisgarh)
11. Smt. Gulshan Bai, W/o Baburam Loniya, Aged About 65 Years R/o Village Karhipara Nirtu, Police Station Koni, Tahsil Takhatpur, Civil & Revenue District Bilaspur (Chhattisgarh)
12. Itwari Patel, S/o Dukalu Ram Patel, Aged About 51 Years Occupation Labour, R/o Village Konchara, Post Mitthu Nawagaon, Police Station & Tahsil Kota, Civil & Revenue District Bilaspur (Chhattisgarh)

---- Petitioner

Vs

1. State Of Chhattisgarh Through Secretary, Co-Operative Department, Mahanadi Bhawan, Mantralaya, Raipur, P. S. Rakhi, Tahsil & District Raipur, Civil & Revenue District Raipur (Chhattisgarh)
2. Manager Society, Krishak Seva Sahkari Samtii Maryadit, Ghutku, Reg. No. 3091, Police Station Koni, Tahsil Takhatpur, District Bilaspur (Chhattisgarh), Civil & Revenue District Bilaspur (Chhattisgarh)
3. President Of Krishak Seva Sahkari Samiti Maryadit, Ghutku, Reg. No. 3091, Police Station Koni, Tahsil Takhatpur, District Bilaspur (Chhattisgarh), Civil & Revenue District Bilaspur (Chhattisgarh)
4. Chief Executive Officer, Zila Sahkari Kendriya Bank Maryadit Bilaspur, Police Station Civil Lines, Tahsil & District Bilaspur (Chhattisgarh), Civil & Revenue District Bilaspur (Chhattisgarh)
5. Registrar, Co-Operative Society, Indrawati Bhawan, New Raipur, Police Station Kewli, Tahsil & District Raipur (Chhattisgarh) Civil And Revenue District Raipur (Chhattisgarh)
6. Deputy Registrar, Co-Operative Society, Composit Building, Bilaspur, Police Station Civil Lines, Tahsil & District Bilaspur (Chhattisgarh), civil And Revenue District Bilaspur (Chhattisgarh)

---- Respondent

For Petitioners	Shri Ratnesh Agrawal, Advocate
For Respondent-State	Shri Ramakant Mishra, Dy. AG and Shri Shashank Thakur, GA
For Private Respondents	Shri Ravish Verma, Shri Devesh Verma and Shri Akash Pandey and Shri Jitendra Shrivastava, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

25/07/2016

1. The present batch of writ petitions have been preferred by the members/borrowers of the Krishak Sewa Sahakari Samiti, Ghutku, a primary credit cooperative society (henceforth 'the Ghutku Society') registered under the provisions of the Chhattisgarh Cooperative Societies Act, 1960. The petitioners have prayed for refund of the amount, which they have deposited with the Ghutku Society, which in turn was deposited by the Ghutku Society with the District Central Cooperative Bank, Bilaspur (henceforth 'the DCCB, Bilaspur').
2. In WPC No.2153/2015, this Court passed an order on 27.01.2016 observing that a sum of Rs.7 crores approximately has been deposited by the villagers with the Krishak Sewa Sahakari Samiti, Ghutku, Tahsil Takhatpur, District Bilaspur. However, the said bank/primary society is closed and the office bearers are not available leaving the villagers in lurch, as a result the account holders are not able to withdraw their own money in times of need.

3. This Court directed the respondents/State to file return with proposal as to how the petitioners would get back their money. It was also observed that depending upon the contents of the return and the action initiated by the respondents/State to redress the grievance raised in the writ petition, this Court may consider handing over the entire matter to the Central Bureau of Investigation (henceforth 'the CBI') for proper investigation.
4. Return has been filed by all the respondents in WPC No.2153/2015, therefore, the matters being common, they are taken up for disposal with the consent of learned counsel for the parties.
5. It is informed that after the above said order was passed by this Court, the parties have swung into action and based on the audit report, the Deputy Registrar, Cooperative Societies, Bilaspur has directed for lodging the FIR vide its letter dated 22.02.2016. Learned State counsel would inform that for return of the amount to the account holders, the State Government has issued instructions on 11.02.2016 directing the Apex Bank, Raipur to disburse the soft loan amount of Rs.10 crores on the guarantee of the State Government to the DCCB, Bilaspur. Out of the said amount made available by the Apex Bank, the DCCB, Bilaspur through the concerned primary society is refunding the amount to the depositors.
6. At this stage, learned counsel for the petitioners would submit that only the initial deposit is refunded and not the interest amount, which the account holders have earned, therefore, it is incorrect to

say that the entire amount is disbursed.

7. When this Court proceeded to examine the whole issue as to understand the method of working of the primary society vis-a-vis the District Central Cooperative Bank, startling facts have been revealed, inasmuch as the entire amount appears to have been deposited with the District Central Cooperative Bank, however, the pass book is issued by the concerned primary society. A primary credit cooperative society is not a recognized branch of the District Central Cooperative Bank in terms of the banking business for which licence has been granted to it by the Reserve Bank of India (for short 'the RBI'). Under the Banking Regulation Act 1949 (henceforth 'the Act, 1949'), opening of a new branch of any bank can only be made with the previous permission of the RBI. The concerned primary credit cooperative society is acting as a branch of the District Central Cooperative Bank, even though it is not recognized as a branch by the RBI, therefore, it is not entitled to receive deposits from the villagers. When this Court raised a query as to when only Rs.1.7 crores approximately is involved in the present case concerning the Ghutku Society why a soft loan of Rs.10 crores has been sanctioned to the DCCB, Bilaspur, it was informed that there are other primary societies, wherein huge amount has been embezzled in similar fashion. As a matter of fact, the State has filed a document in form of resolution of the DCCB Bank, Bilaspur on 03.02.2016 mentioning that out of the saving banks or primary societies working under the DCCB, 25 banks or societies are solvent and 32 are insolvent. The total amount

involved in insolvent branches is about **Rs.698.36** lacs. What is more startling is that similar banking activity is carried on by all the primary credit cooperative societies throughout the State. Though this Court is not posted with the amount involved or embezzled by the different primary cooperative societies attached to the other District Central Cooperative Banks, the fact remains that there are thousand societies throughout the State and if each of the primary credit society has on average defalcated to the tune of Rs.1 crore, the total deposits with the primary societies would come to several hundred crores.

8. Permitting withdrawal of the amount to the depositors is one of the measure, which can be directed for redressal of the grievance of the individual petitioners. However, when the entire banking activity is *de hors* the provisions of the Act, 1949 and only in DCCB Bilaspur, 32 such insolvent branches are working, the matter needs to be investigated with closure scrutiny, because it has effect on the financial system at the rural level involving rural masses comprising of depressed class of society.
9. Considering the importance of the matter and the manner in which crores of rupees has been embezzled not only by the subject primary society but also in other similar societies, this Court deems it appropriate to refer the entire matter to the CBI for investigation and filing of charge sheet against the culprits. FIR lodged against Ghutku Society and its office bearers be handed over to the CBI. Likewise, the CBI shall also investigate such defalcation in 32 other

primary societies attached to the DCCB, Bilaspur wherein also huge amount has been embezzled and the depositors have been defrauded. The CBI shall also investigate involvement of the officers or employees of the DCCB, Bilaspur, if any. The CBI shall conduct entire investigation within a period of 8 months.

10. Depending upon outcome of the investigation, the CBI shall file charge sheet and submit action taken report before this Court. On such report being filed, the Registry shall register MCC and place the same before this Court. However, it is made clear that investigation by the CBI would not come in way of the petitioners receiving payment of the amount offered to them by the DCCB, Bilaspur or by the concerned society, as the case may be. Payment should be made to the depositors within a period of 6 months along with accrued interest applicable to such deposits.
11. With the aforesaid observations and directions, all the writ petitions stand disposed of.
12. No order as to costs.

Nirala/Barve

Sd/-
Judge
(Prashant Kumar Mishra)